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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,269	02/17/2004	Keith M. Grispo	50319-00139	2232
25231 7590 05/24/2010 MARSH, FISCHMANN & BREYFOGLE LLP 8055 East Tufts Avenue Suite 450 Denver, CO 80237				
EXAMINER GILBERT, ANDREW M.				
ART UNIT		PAPER NUMBER		
3767				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,269

Applicant(s)

GRISPO, KEITH M.

Examiner

ANDREW M. GILBERT

Art Unit

3767

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57, 58 and 68-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 57, 58 and 68-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 2/12/2010
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgments

1. This office action is in response to the reply filed on 10/15/2009.
2. In the reply, the Applicant amended claims 57, 70, 71, 80.
3. Thus, claims 57-58, 68-80 are pending for examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 57-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emig et al (6471674) in view of Medrad, Inc., "Stellant CT Injection System", Operation Manual Catalog #SOM 700 EN, 2003, 88 pages - hereafter, "Stellant".
5. Emig et al discloses a method of using a dual head injector (Fig 1), the method comprising: mounting a first syringe that is prefilled (300, col 2, lns 19-20; col 5, lns 38) with contrast media to the injector; mounting a second syringe to the injector (500); coupling a first section of T-tubing (450) to the first syringe and coupling a second section of the T-tubing to the second syringe (Fig 2a-f); initiating a purging operation of the injector while the first and second syringes are mounted to the injector and while the first and second sections of the T- tubing are coupled to the first and second syringes

(col 6, lns 9-19); initiating a purging operation of the injector while the first and second syringes are mounted to the injector and while the first and second sections of the T-tubing are coupled to the first and second syringes (Fig 2a-f; col 6, lns 6-18), respectively, wherein the first syringe comprises contrast media (300) prior to the initiation of the purging operation; wherein the second syringe comprises saline prior to the initiation of the purging operation; wherein the purging operation comprises: advancing a first plunger drive ram of the injector to move a plunger of the first syringe to a first stop point at the intersection of the T-valve where the check valve and where the plunger of the first syringe stops (Fig 2a-f; col 6, lns 6-18; wherein the plunger 320 is preferably advanced sufficiently to prime the fluid path between syringe 300 and check valve 410), wherein the advancing of the first plunger drive ram purges all air from the first syringe and the first section of Y-tubing and fills the first section of the Y-tubing with contrast media (Fig 2a-f; col 6, lns 6-18; wherein the plunger 320 is preferably advanced sufficiently to prime the fluid path between syringe 300 and check valve 410); and advancing a second plunger drive ram of the injector to move a plunger of the second syringe to a second stop point where the plunger of the second syringe stops (Fig 2a-f; col 6, lns 6-18; wherein the second stop clears everything with saline), wherein the advancing of the second plunger drive ram purges air from the second syringe and the second section and third sections of the T-tubing and fills it with saline (Fig 2a-f; col 6, lns 6-18); and initiating an injection procedure that includes injecting contrast media into the patient (col 6), wherein the injection procedure occurs: after the purging operation is completed; while the first and second syringes are mounted to the injector; and while

the first and second sections of the Y-tubing are coupled to the first and second syringes, respectively (Fig 2a-g); wherein a combination of the advancing of the first plunger drive ram and the advancing of the second plunger drive ram results in a purge of substantially all air from the first and second syringes and the T-tubing (col 6); wherein the advancing of the second plunger drive ram comprises filling the second section of the Y-tubing with saline; wherein the advancing of the second plunger drive ram comprises filling the second section and a third section of the Y-tubing with saline (Fig 2a-f; col 6, lns 6-18); wherein the first syringe is filled with contrast media (300); wherein the second syringe comprises saline prior to initiating the purging operation (500).

6. However, Emig et al does not disclose a Y-connector.
7. Stellant teaches that it is known to have a Y-connector in a dual head injector system for the purpose of merging two flows into a single flow. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the T-connector as taught by Emig et al with the Y-connector as taught by Stellant for the purpose of merging two flows because they perform substantially the same function in substantially the same manner.
8. Additionally, it is not clear if Emig et al in view of Stellant explicitly disclose wherein the advancing of the first plunger drive ram occurs before the advancing of the second plunger drive ram (see Emig et al, col 6, lns 6-19; Applicant's Remarks, pg 7-8).
9. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the purge protocol as taught by Emig et al with a the first

plunger drive ram occurring before the advancing of the second plunger drive ram since changes in sequence are *prima facie* obvious in the absence of new or unexpected results (See MPEP 2144.04(IV)(C)). Having the first plunger drive ram advancing before the second plunger drive ram does not provide a new or unexpected result in this case. It is apparent that the expected result of priming the contrast syringe and tubing will occur first, followed by the priming of the saline syringe and tubing. Furthermore, under the *KSR* exemplary rationales that may support a conclusion of obviousness, the switching of the advancement of the first and second plunger drive rams are combining prior art elements according to known methods to yield predictable results through the use of known techniques and, finally, is also "obvious to try" because the choice of advancing the first vs. second plunger drive ram to prime the device with either the saline or contrast syringe first followed by priming with the other syringe is a choice from a finite number of unidentified, predictable solutions, with a reasonable expectation of success (see MPEP 2141).

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW M. GILBERT whose telephone number is (571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M Gilbert/

Examiner, Art Unit 3767

/Kevin C. Simmons/

Supervisory Patent Examiner, Art Unit 3767